Supreme Court, U. S.
FILED
JAN 19 1980
MICHAEL RODAK, JR., CLERK

No. 79-947

In the Supreme Court of the United States

OCTOBER TERM, 1979

BETTY CALHOUN, ET AL., PETITIONERS

v.

UNITED STATES OF AMERICA, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MEMORANDUM FOR THE RESPONDENTS IN OPPOSITION

WADE H. MCCREE, JR.
Solicitor General
Department of Justice
Washington, D.C. 20530

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The judgment of the United States Court of Appeals for the Ninth Circuit in this civil case was entered on September 18, 1979. Petitioners did not seek rehearing in the court of appeals, nor did they request or obtain an extension of time for filing a petition for a writ of certiorari. The petition was filed on December 18, 1979, and is therefore out of time. The time limits established by 28 U.S.C. 2101(c) are jurisdictional. See *Toledo Scale Co.* v. *Computing Scale Co.*, 261 U.S. 399, 417-418 (1923).

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

WADE H. McCREE, JR.
Solicitor General

JANUARY 1980